IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

MFA.No. 975 of 2001(D)
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AGAINST OPMV.509/1996 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANTS/PETITIONERS:
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1. RAMATHAL, W/O.LATE SUBRAMANI, AGED 32 YEARS, NOW RESIDING AT VEPPANGATTUTHOTTAM, ODAIPATTY VILLAGE AND POST, VIA. AMBILIKAI, PALANI TALUK, ANNA DISTRICT, TAMIL NADU.

2. BALAMURUGAN (MINOR), S/O.LATE SUBRAMANI, AGED 12 YEARS, REPRESENTED BY HIS NEXT FRIEND, MOTHER AND NATURAL GUARDIAN RAMATHAL, VEPPANGATTUTHOTTAM, ODAIPATTY VILLAGE AND POST, AMBILIKAI, PALANIM TALUK, TAMIL NADU.

BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR
SMT.T.THANKAM

RESPONDENTS/RESPONDENTS:
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1. M/S.M.N.A.MOHANNED SULTAN AND SONS, TAJ MAHAL TOBACCO COMPANY, POST BOX NO.29, PUDUKKOTTAI, TAMIL NADU.

2. SELVARAJ, S/O.ISAKUNJA, AGE NOT KNOWN, 40C, THIRUVIKA STREET, PULIAMPATTY, TAMIL NADU.

3. NATIONAL INSURANCE COMPANY LIMITED, BRANCH OFFICE 4132, EAST MAIN STREET, PUDUKKOTTAI, TAMIL NADU.

(SINCE NO RELIEF IS CLAIMED AGAINST RESPONDENTS 4 AND 5 IN THE ABOVE ORIGINAL PETITION, THEY ARE NOT MADE PARTIES IN THIS APPEAL)

R3 BY ADV. SRI.LAL GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**J.B. KOSHY & K. HEMA, JJ.**

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M.F.A. No. 975 of 2001

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Dated this 18th day of December, 2007

**JUDGMENT**

**Koshy,J:**

Husband of the first appellant sustained fatal injuries and breathed his last on the spot in a motor accident due to the negligence of the driver of a goods vehicle insured by the 3rd respondent. Second respondent was driving the above offending vehicle. It was insured by the 3rd respondent insurance company. Appellant along with her minor son aged 7 years filed application for compensation claiming Rs.6 lakhs. The Tribunal awarded only Rs.2, 18,500/- towards compensation. Only quantum of compensation is disputed in this appeal.

2. According to the claimants, deceased was a cloth merchant getting cloth from Tamil Nadu and selling the same. It was also contended that he was a money lender. He was having his on motor cycle. The Tribunal fixed Rs.1500/- as the monthly income. The incident occurred on 9.2.1994. It is true

that there is no data to prove the income. But he was having his own motor cycle and accident occurred while he was riding the motor cycle. He was having cloth selling and also money lending business. Taking all these facts into consideration, his monthly income can be fixed at Rs.2500/-. After deducting 1/3rd for personal expenses, his loss of dependency can be fixed at Rs.1650/-. Taking guidance from the the Second Schedule, the Tribunal fixed 17 as the multiplier. We are of the view that no interference is required in the multiplier adopted by the Tribunal. If that be so, compensation payable will be Rs.3,36,600/-. From the above Rs.2,04,000/- has to be deducted. Therefore, additional compensation payable will be Rs.1,32,600/-. Even though it was contended that amounts awarded on other heads are very low, considering the total compensation, we are not granting any enhancement on other heads. The additional amount of Rs.1,32,600/- shall be despited by the 3rdrespondent Insurance-Company with 7.5% interest from the date of application till its deposit over and above the amount decreed by the Tribunal. Out of the compensation, 1/3rd is allowed to be withdrawn by the first appellant (widow) and balance 2/3rd should

be deposited in the name of the 2nd appellant (son) enabling him to withdraw the same at the age of 21.

Appeal is partly allowed.

Sd/-

**J.B. KOSHY, JUDGE.**

Sd/-

**K. HEMA, JUDGE.**

Krs.

**J.B. KOSHY & K. HEMA, JJ.**

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M.F.A. No. 975 of 2001

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Dated this 18th day of December, 2007

**JUDGMENT**